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LEGISLATIVE SERVICES COMMITTEE

OFFICE OF LEGISLATIVE COUNSEL
316 STATE CAPITOL
ATLANTA, GEORGIA 30334
(404) 656-5000

Henson 4/1st

March 22, 2019

Honorable Steve Henson
Senator, District 41

BY EMAIL: Steve.Henson@senate.ga.gov

Dear Senator Henson:

You asked me for an opinion as to the effect of HB 481 (the fetal heartbeat abortion bill) on the availability of public benefits to illegal immigrants in Georgia. It is my opinion, as discussed more fully below, that the passage of the bill is likely to increase the demand for public benefits paid to illegal immigrants through their unborn children.

As you know, HB 481 declares that a fetus is a person as soon as a fetal heartbeat can be detected. This is usually thought to be around the sixth week of a pregnancy. At that point the person is entitled to be included as a dependent on the person or family's income tax return and is entitled to other protections afforded to any other person residing in this state. It is clear that upon birth in this state, such person is a citizen of the United States and entitled to all rights and privileges enjoyed by any other citizen. What is unclear is the person's status from six weeks until birth. I believe that, unlike the illegal mother and/or father, the child, as a resident of Georgia, would be entitled to public benefits from the first detection of the fetal heartbeat forward.

For some background, it is important to note that there is a federal statute which relates to the provision of public benefits to illegal aliens. The federal law is a part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the "PRA"), with the relevant portion found at 8 U.S.C.S. §1621. That section basically provides that most state and local government services *cannot be provided to illegal aliens unless they are made eligible by a state law enacted after August 22, 1996*. The PRA states that it is the immigration policy of the United States to restrict alien access to substantially all public benefits.

In terms of government services, illegal immigrants certainly receive some. They use roads, they benefit from police protection, they use the judicial system, etc. They are ineligible to receive other public benefits, however, like food stamps, Medicaid (except for emergency medical services), housing vouchers, etc. One main exception to this is that illegal immigrant children cannot be denied an education.